

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	
)	

COMMENTS OF GRANDE COMMUNICATIONS NETWORKS, LLC

Grande Communications Networks, LLC (“Grande”), by its attorneys, submits these comments in response to a public notice by the Wireline Competition Bureau (“Bureau”) of the Federal Communications Commission’s (“FCC” or “Commission”) soliciting comments on the proposed changes to FCC Form 499-A, FCC Form 499-Q, and accompanying instructions.¹ In the Public Notice, the Bureau proposes numerous changes, including changes to the instructions regarding Line 405 of the FCC Form 499-A and the treatment of subscriber line charges (“SLC”).² For the reasons discussed below, Grande supports the proposed changes to the instructions for the reporting of SLCs and urges the Bureau to include the changes in the 2013 Form 499-A.

¹ *Public Notice*, Wireline Competition Bureau Seeks Comment on a Proposed Changes to FCC Form 499-A, FCC Form 499-Q, and Accompanying Instructions, WC Docket No. 06-122 (rel. Nov. 23, 2012) (“Form 499 Public Notice”).

² *Id.*, PN Attachment 2 (2013 Instructions to the Telecommunications Reporting Worksheet, Form 499-A) (“Proposed 499-A Instructions”) at 17.

I. BACKGROUND

This is the first time that the Wireline Competition Bureau has sought public input prior to the release of the FCC Forms 499-A, 499-Q and accompanying instructions. Previously, the Bureau has issued revised forms and instructions without prior input, pursuant to a delegation of authority to make “administrative changes” to the Universal Service Fund (“USF”) forms and reporting requirements.³ Although the Bureau clearly does not have authority to enact substantive changes to USF reporting obligations through the instructions,⁴ several parties have raised questions concerning previous changes and the instructions typically take on unusual importance in audits and other interactions with the Administrator (the Universal Service Administrative Company or “USAC”).

Therefore, it is a helpful step that the Bureau has published its proposed changes in advance and provided an opportunity for comment. While the *Form 499 Public Notice* does not alter the status of the instructions as non-binding guidance, Grande agrees that the process will provide greater clarity, transparency and predictability in USF administration.⁵ Grande submits these comments in the spirit of improving the Bureau’s instructions for the 2013 Form 499-A. Grande recognizes, however, that the Commission is evaluating several proposals in the

³ *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service*, Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400, 18442, ¶ 81 (1997) (delegating authority to revise USF forms in order to promote the “sound and efficient administration” of the Fund); *1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, 14 FCC Rcd 16602, 16621, ¶¶39-40 (1999) (reaffirming that the delegation to the Bureau “extends only to making changes to the administrative aspects of the reporting requirements, not to the substance of the underlying programs”).

⁴ *Id.*

⁵ *Form 499 Public Notice*, at 1.

Contribution Reform FNPRM to formalize a process for modifying the instructions.⁶ Nothing in these comments implies a position on the proposed procedures for revising future Form 499-As.

II. THE INSTRUCTION AND RULE CLARIFICATION RELATING TO SUBSCRIBER LINE CHARGES IS APPROPRIATE

The Bureau's proposed changes to the Form 499-A Instructions include changes to instructions for the treatment of subscriber line charges. The *Form 499 Public Notice* explains that these revisions are being made "in order to better reflect Commission precedent and rules."⁷ As detailed in the *Form 499 Public Notice*, the Bureau proposes to delete the following language contained in the current instruction for reporting of revenues on Line 404 (fixed local revenues):

Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service; these amounts are separate from toll revenues and correspond to the revenues received by incumbent local exchange carriers to recover part of the cost of networks that allow customers to originate and terminate interstate calls. Filers without subscriber line charge revenue must identify the interstate portion of fixed local exchange service revenues in column (d) of the appropriate line 404.1.⁸

The Bureau further proposes to insert new language in the instruction for reporting of revenues on Line 405 (tariffed SLCs and other charges). The proposal would insert the following language to the instructions for Line 405:

Note that federal subscriber line charges are separate from toll revenues. Although the Commission does not regulate federal subscriber line charges for non-incumbent LECs, to the extent that non-incumbent contributors choose to recover a non-traffic sensitive charge for the costs of providing interstate or interstate access service from their customers through a separately stated charge, they must allocate those revenues to

⁶ *Universal Service Contribution Methodology; A National Broadband Plan for our Future*, Further Notice of Proposed Rulemaking, WC Docket No. 06-122, GN Docket No. 09-51, FCC 12-46 (rel. April 30, 2012) ("Contribution Methodology *FNPRM*").

⁷ *Form 499 Public Notice*, at 3.

⁸ *Form 499 Public Notice*, at 3; see Proposed 499-A Instructions at 16.

the interstate jurisdiction, for USF reporting purposes, in a manner that is consistent with their supporting books of account and records.⁹

The proposed additions also include a footnote to the last sentence (requiring reporting “consistent with [a filer’s] supporting books of account and records”) that states: “For example, to the extent that a contributor’s tariff filing (or equivalent) indicates that a non-traffic sensitive charge is for interstate access, then revenues for such charge (or a portion thereof) must be allocated to interstate revenues for USF reporting purposes.”¹⁰

Grande supports the proposed instruction changes because they confirm Commission orders that provide discretion for non-incumbent LECs regarding whether and how to assess SLCs, and they correct erroneous interpretations stemming from the previous Form 499-A Instructions. In short, Grande agrees that the *new* language “better reflect[s] Commission precedent and rules.”¹¹

III. COMMISSION RULES DO NOT REQUIRE CLECS TO CHARGE A FEDERAL SLC

Grande supports the proposed changes because the revision re-states and reemphasizes the FCC’s position that competitive local exchange carriers (“CLECs”) are not obligated to charge a federal SLC, as well as more clearly incorporating that policy into the reporting instructions for Line 405.

The proposed instruction to Line 405 expressly recognizes that “the Commission *does not regulate* federal subscriber line charges for non-incumbent LECs.”¹² The Commission rules governing the recovery of the costs of originating and terminating interstate toll calls from their

⁹ *Form 499 Public Notice*, at 3; see Proposed 499-A Instructions at 17.

¹⁰ *Id.*

¹¹ *See Form 499 Public Notice*, at 3.

¹² Proposed 499-A Instructions at 17 (emphasis added).

end user subscribers apply only to *incumbent* local exchange carriers (“ILECs”). The Commission has two rules in Part 69 for the collection of the end user common line charge (commonly referred to as the subscriber line charge or SLC): one for rate of return ILECs and one for price cap ILECs. Section 69.104 states that it “is applicable only to incumbent local exchange carriers not subject to price cap regulation.”¹³ Similarly, Section 69.152 governs the collection of an end user common line charge by price cap carriers.¹⁴ Only dominant local exchange carriers may be subject to price cap regulations.

Non-incumbent LECs (*i.e.*, CLECs) are not subject to either rule.¹⁵ Thus, Part 69 does not require a CLEC to collect an interstate SLC. The Commission has confirmed this conclusion on many occasions. For example, in a 2002 Order, the Commission explained that the interstate SLC is “a flat-rated charge imposed by LECs on end users to recover the interstate-allocated portion of local loop costs.”¹⁶ That Order defined “LECs” as incumbent local exchange carriers; competitive LECs were not included in the term as used in the Order.¹⁷

Furthermore, although a CLEC may choose to collect a SLC,¹⁸ there is no Commission rule prohibiting a CLEC from determining that its federally tariffed interstate switched access charges fully recover the CLEC’s costs for providing interstate switched access or precluding a CLEC from determining that none of its intrastate local exchange service revenues are

¹³ 47 C.F.R. § 69.104(a).

¹⁴ 47 C.F.R. § 69.152.

¹⁵ 47 C.F.R. §§ 61.3(ee), 61.41(a)(2).

¹⁶ *In re Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps; Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers*, 17 FCC Rcd 10868, ¶ 1 (2002).

¹⁷ *Id.*

¹⁸ *In re: Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 366 (1997); *In re Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps; Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers*, 17 FCC Rcd 10868, n.8 (2002).

compensation for providing interstate switched access. Because it is not mandatory that CLECs recover these interstate costs from their subscribers, a CLEC's intrastate revenues will not necessarily include any revenues attributable to an interstate SLC and the CLEC would not have any interstate SLC revenues to report on its Form 499-A. For such CLECs, the proposed instruction recognizing that the Commission does not regulate CLEC SLCs is correct.

Further, Grande agrees with the proposed instruction that *if* a CLEC chooses to assess an *interstate* SLC, revenues received from such charges should be reported on Line 405.¹⁹ Because a CLEC is not required to assess any interstate charges, however, it is also true that if a CLEC recovers its *intrastate* costs partially through a local service charge and partially through a separate charge for non-traffic sensitive costs, such revenues should *not* be included on Line 405. That is, Line 405 requires the reporting of *interstate* charges only; any intrastate charge assessed by a filer, even if separately stated, is not to be reported on Line 405. This conclusion is reflected by the Bureau's proposed deletion of a statement previously made in association with Line 404 to the effect that a filer was required to allocate a portion of its local service revenues to the interstate jurisdiction.²⁰

In concert, the proposed deletion of language relating to Line 404 revenues and the insertion of the proposed instruction relating to Line 405 accurately capture this distinction. Therefore, Grande thus supports the Bureau's proposed revisions as they relate to the assessment of SLCs.

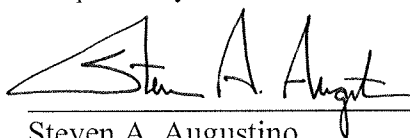
¹⁹ See Proposed 499-A Instructions at 17 (requiring revenue to be reported on Line 405 "to the extent that non-incumbent contributors choose to recover a non-traffic sensitive charge for the costs of providing *interstate or interstate access* service from their customers through a separately stated charge") (emphasis added).

²⁰ See Proposed 499-A Instructions at 16 (deleting language).

IV. CONCLUSION

For the foregoing reasons, the Bureau should proceed with the proposed instruction changes as they relate to SLCs and revenues reported on Lines 404 and 405 of the FCC Form 499-A. The proposed instructions described above will further clarify that CLECs are not required to collect a federal or interstate SLCs and that CLECs are not required to declare, on the Form 499-A, a portion of the CLEC's intrastate revenues as attributable to an interstate SLC.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steven A. Augustino", is written over a horizontal line.

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